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*Attorneys for Defendants
Wal-Mart Stores, Inc. and
Walmart Neighborhood Market*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SUSIE MCCABE,

Plaintiff.

V.

WAL-MART STORES, INC, WAL-MART
NEIGHBORHOOD MARKET, DOE
MAINTENANCE EMPLOYEE, DOE
EMPLOYEE, DOE JANITORIAL
EMPLOYEE, DOE OWNER, I-V, ROE
OWNERS, ROE EMPLOYER, and ROE
COMPANIES

Defendants

CASE NO: 2:14-cv-01987-JAD-CWH

AMENDED JOINT PRETRIAL ORDER

Following pretrial proceedings in this cause,

IT IS ORDERED:

J.

This is an action for:

The underlying lawsuit pertains to an alleged slip and fall incident which occurred on November 4, 2012 at a Walmart Grocery store in Las Vegas, NV. *See McCabe Complaint*, Dkt. No. 1. As a result of this incident, Plaintiff Susie McCabe alleges she was injured.

II.

Statement of Jurisdiction:

On December 16, 2014, this case was removed to Federal Court pursuant to 28 U.S.C. 1332, 1441(a), and 1466(a) based upon diversity jurisdiction. Defendant Wal-Mart is a Delaware corporation with its principal place of business in the State of Arkansas and is therefore a citizen of the State of Delaware and the State of Arkansas.

III.

The following facts are admitted by the parties and require no proof:

9 1. On November 4, 2012, SUSIE MCCABE was a patron of Wal-Mart Neighborhood
10 Store located at 1400 S. Lamb Blvd., Las Vegas NV 89104.

IV.

The following facts, though not admitted, will not be contested at trial by evidence to the contrary:

1. None

V.

The following are the issues of fact to be tried and determined upon trial. Should counsel be unable to agree upon the statement of issues of fact or law, the joint pretrial order should include separate statements of issues of fact or law to be tried and determined upon trial. (Each issue of fact must be stated separately and in specific terms.):

1. Whether Defendant was negligent.;
2. Whether Plaintiff was comparatively negligent.
3. Whether :

The reasonable value of the damages incurred to Plaintiff

4. Whether the medical care and treatment received by Plaintiff was reasonable and necessary as a result of the subject incident. Whether the medical care and treatment received by Plaintiff was causally related to the incident concerned in this litigation.

5. VI.

The following are the issues of law to be tried and determined upon trial:

1. The amount of negligence, if any, attributable to each party in this litigation.
2. Whether the subject incident was the proximate cause of the medical care, treatment and other damages alleged by Plaintiff.

VII.

- (a) The following exhibits are stipulated into evidence in this case and may be so marked by the clerk:
 - (b) 1) Plaintiff's exhibits: None.
 - (c) 2) Defendant's exhibits: None.

Plaintiff's List of Exhibits that will be offered in evidence:

1. Plaintiff's Filed Complaint;
101. Medical and billing records from Advanced Occupational Health Records for Plaintiff, SUSIE MCCABE;
102. Medical and billing records from Nevada Spine Clinic for Plaintiff, SUSIE MCCABE;
103. Additional medical and billing records from Diagnostic Imaging of Southern Nevada for Plaintiff, SUSIE MCCABE;
104. Medical and billing records from Las Vegas Radiology for Plaintiff, SUSIE MCCABE;
105. Medical and billing records from Valley Hospital Medical Center for Plaintiff, SUSIE MCCABE;
106. Medical and billing records from Western Regional Center for Brain & Spine Surgery for Plaintiff, SUSIE MCCABE;

1 107. Medical and billing records from Well Care Pharmacy for Plaintiff, SUSIE MCCABE;
2 108. Medical and billing records from David Ross, M.D. for Plaintiff, SUSIE MCCABE;
3 109. Medical report and estimate of future medical expenses from Dr. Stuart Kaplan, M.D. for
4 Plaintiff, SUSIE MCCABE;
5 110. Billing records from Goetz Do LLC for Plaintiff, SUSIE MCCABE;
6 111. Walmart's Customer Statement by Plaintiff, SUSIE MCCABE;
7 112. Curriculum Vitae, Fee Schedule and Testimony List of Mark Kabins, M.D.;
8 113. Independent Medical Examination/Comprehensive Medicolegal Assessment report dated
9 May 18, 2015 of Mark Kabins, M.D., regarding Plaintiff, SUSIE MCCABE;
10 114. Additional medical and billing records from Valley Hospital Medical Center for Plaintiff,
11 SUSIE MCCABE;
12 115. Comprehensive Medical Records Review report dated June 1, 2015 of Mark Kabins, M.D.,
13 regarding Plaintiff, SUSIE MCCABE;
14 116. Curriculum Vitae, Fee Schedule and Testimony List of Mark Kabins, M.D.;
15 117. Curriculum Vitae & Fee Schedule of Joseph T. Crouse, Ph.D.;
16 118. Medical Care Cost Summary report dated June 2, 2015 of Joseph T. Crouse, Ph.D.,
17 regarding Plaintiff, SUSIE MCCABE;
18 119. Curriculum Vitae, Fee Schedule and Testimony of Stuart S. Kaplan, M.D., regarding
19 Plaintiff, SUSIE MCCABE;
20 120. Medical Records Review report dated June 4, 2015 of Stuart S. Kaplan, M.D., regarding
21 Plaintiff, SUSIE MCCABE;
22 121. Curriculum Vitae, Fee Schedule and Testimony List of Frank A. Perez, Ph.D.;
23 122. Preliminary Report dated July 3, 2015 for Plaintiff, SUSIE MCCABE by Frank A. Perez,
24 Ph.D.;
25 123. Curriculum Vitae, Fee Schedule and Testimony List of Hans Jorge Rosler, M.D.;

1 124. First Addendum to Comprehensive Medical Record Review report dated June 30, 2015 of
2 Mark Kabins, M.D., regarding Plaintiff, SUSIE MCCABE;
3 125. Medical records from Las Vegas Paiute Health & Human Services for Plaintiff, SUSIE
4 MCCABE;
5 126. Additional medical and billing records from Western Regional Center for Brain & Spine
6 Surgery for Plaintiff, SUSIE MCCABE;
7 127. Rebuttal Report dated August 2, 2015 of Mark Kabins, M.D., regarding Plaintiff, SUSIE
8 MCCABE;
9 128. Rebuttal Report dated August 2, 2015 of Stuart S. Kaplan, M.D., regarding Plaintiff, SUSIE
10 MCCABE;
11 129. Deposition transcript of Susie McCabe taken June 9, 2015;
12 130. Deposition transcript of Herbert McCabe taken August 3, 2015;
13 131. Deposition transcript of Naomi McCabe taken August 3, 2015;
14 132. Deposition transcript of Stuart S. Kaplan, M.D., taken August 7, 2015;
15 133. Deposition transcript of Hans Jorg Rosler, M.D., taken August 11, 2015;
16 134. Deposition transcript of Michael Reid, M.D., taken August 20, 2015;
17 135. Deposition transcript of Steven L. McIntire, M.D., taken August 19, 2015;
18 136. Deposition transcript of Joseph T. Crouse, Ph.D., taken August 27, 2015;
19 137. Deposition transcript of Juan Sanchez taken August 28, 2015;
20 138. Deposition transcript of James Sanders, Jr., taken August 28, 2015;
21 139. Supplemental Preliminary Report dated September 9, 2015 for Plaintiff, SUSIE MCCABE
22 by Frank A. Perez, Ph.D.;
23 140. Deposition transcript of Frank A. Perez, Ph.D., taken September 9, 2015;

25 All exhibits listed by any other party to this litigation.

26 All documents identified during discovery in this litigation.

1 All pleadings filed in the case

2 All responses to any Interrogatories and/or Request for Admissions by any Defendant in this
3 litigation.

4 All depositions including exhibits

5 Rebuttal and/or impeachment documents.

6 Plaintiff reserves the right to supplement this list as the discovery process continues.

7

8 Defendant's List of Exhibits that will be offered in evidence:

9 A. Store Incident Report, dated November 4, 2012 WM 2014-25851-0002 through WM
10 2014-025851-0003;

11 B. Customer Statement of Susie McCabe, dated November 4, 2012 WM 2014-25851-
12 0001;

13 C. Walmart policies and procedures on closing as of date of incident; WM 2014-030530-
14 0126 through -0141; WM 2014-030530-0146 through -0148; WM 2014-030530-0174; WM
15 2014-030530-0185 through -0241; WM 2014-030530-0273 through -0274; WM 2014-
16 030530-0284 through -0285; WM 2014-030530-0292 through -0294; WM 2014-030530-
17 0299 through -0300; WM 2014-030530-0311 through -0313; WM 2014-030530-0316
18 through -0317; WM 2014-030530-0356 through -0359; WM 2014-030530-0380 through -
19 0383; WM 2014-030530-0388 through -0390; WM 2014-030530-0396 through -0397; WM
20 2014-030530-0400 through -0402; WM 2014-030530-0430 through -0431; WM 2014-
21 030530-0437 through -0438; WM 2014-030530-0447 through -0448; WM 2014-030530-
22 0450 through -0452; WM 2014-030530-0461 through -0517; WM 2014-030530-0693

1 through -0694; WM 2014-030530-0699 through -0704; WM 2014-030530-0712 through -
2 0713; WM 2014-030530-0719 through -0721; WM 2014-030530-0725;

3 D. Walmart policies and procedures on Customer Incident Claims Process as of date of
4 incident; WM 2014-30530-0746 through WM 2014-30530-076;

5 E. Walmart structural repair scope of work WM-30530-0763-WM-30530-0766

6 F. any and all medical records and billings disclosed and/or produced by Plaintiff

7 G. Dr. McIntire's reports,

8 H. Dr. McIntire's *curriculum vitae*,

9 I. Dr. McIntire's testimony list,

10 J. Dr. McIntire's publication list

11 K. Dr. McIntire's fee schedules

12 L. Dr. McIntire's record review Dated May 1, 2015,

13 M. Dr. McIntire's IME Report dated June 16, 2015

14 N. Dr. McIntire's supplemental report dated September 2, 2015

15 P. Dr. Reid's reports dated May 12, 2015 and June 16, 2015,

16 Q. Dr. Reid's *curriculum vitae*,

17 R. Dr. Reid's testimony list,

18 S. Dr. Reid's publication list

19 T. Dr. Reid's fee schedules

20 U. Any and all Rule 26(a) disclosures, supplements thereto and discovery responses
21 produced by Plaintiff in this litigation.

22 The parties reserve the right to use documents/materials not listed herein for
23 impeachment purposes.

1
2
3
4 (d) As to the following additional exhibits the parties have reached the stipulations stated:

5 (1) Set forth stipulations as to Plaintiff's exhibits.

6 None¹

7 (2) Set forth stipulations as to Defendant's exhibits.

8 None. Defendant does not stipulate that the medical treatments and bills are
9 reasonable, customary, and causally related to Plaintiff's injuries at issue.

10 (e) As to the following exhibits, the party against whom the same will be offered objects to
11 their admission upon the grounds stated:

12 1) Objections to Plaintiff's exhibits as follows:

13 2) NOS. 1, 109-124, 127-128, 139: FRE 702,802,901, 403

14 3) NOS. 101-108,110,114,125-126: FRE: 802,901,403

15 4) NOS.129-128 140: FRE: 802,901, 403

16 5) Further, Defendant reserves the right to object to Plaintiff's exhibits up to the time of trial
17 based upon the following grounds, including but not limited to" the fact that the
18 documents are not relevant, are unfairly prejudicial, are not identified with particularity,
19 contain hearsay, lack of foundation, are speculative, are unduly prejudicial, and not
20 disclosed during the normal course of discovery.

21 (f) Depositions:

22 (1) Plaintiff will offer the following depositions:

23 (a) Steven L. McIntire, M.D.

24 (b) Michael H. Reid, Ph.D.

25
26 ¹ The parties each filed motions seeking to limit or preclude certain exhibits. Thus, no stipulation at this time has been
27 reached, but this list will need to be amended pursuant to the orders from the Court on the pending motions.
28

- 1 (c) James Sanders Jr.
- 2 (d) Juan Sanchez
- 3 (e) Frank Perez, Ph.D.
- 4 (f) Mary Homan
- 5 (g) Norika Johnson
- 6 (h) Shawna Murolo – depo pending for 11/30/15

7 (2) Defendant will offer the following depositions:

8 Defendant does not intend to read any depositions at this time, but reserves the
9 right to use depositions due to deponent unavailability, to refresh recollection
10 and/or impeach deposed witnesses.

11 (g) Objections to Depositions:

12 (1) Defendant objects to Plaintiff's depositions as follows: Defendant objects to
13 Plaintiff's proposed use of deposition transcripts as indicated above except for
14 permissible use such as witness unavailability, to refresh recollection, or for
15 impeachment and to any objections raised at the time of deposition.

16 (2) Plaintiff objects to Defendant's depositions as follows: None.

17 **VIII.**

18 The following joint witnesses may be called by the parties upon trial:

19 **PLAINTIFF'S WITNESSES**

20 1. SUSIE MCCABE, Plaintiff
21 c/o MORRIS ANDERSON
22 716 S. Jones Blvd.
23 Las Vegas, Nevada 89107

24 SUSIE MCCABE is the Plaintiff in this action and is expected to provide testimony as to the
25 facts and circumstances surrounding this incident and the injuries and treatment she received.

26 2. PMK of WAL-MART SUPERCENTER
27 dba WAL-MART STORES, INC.

1 c/o Phillips, Spallas, Angstadt, LLC
2 504 South Ninth Street
3 Las Vegas, NV 89101

4 PMK of WAL-MART SUPERCENTER is a Defendant in this action and is expected to provide
5 testimony as to the facts and circumstances surrounding this incident

6 3. WAL-MART EMPLOYEE, JUAN SANCHEZ
7 c/o Phillips, Spallas, Angstadt, LLC
8 504 South Ninth Street
9 Las Vegas, NV 89101

10 JUAN SANCHEZ was the assistant manager on site at the time of the incident and is a witness
11 who is expected to provide testimony as to the facts and circumstances surrounding this incident.

12 4. WAL-MART EMPLOYEE, PAUL ANGELOTTI
13 c/o Phillips, Spallas, Angstadt, LLC
14 504 South Ninth Street
15 Las Vegas, NV 89101

16 PAUL ANGELOTTI was an employee at the time of the incident and is a witness who is
17 expected to provide testimony as to the facts and circumstances surrounding this incident.

18 5. WAL-MART EMPLOYEE, DAVID BOLLINGER
19 c/o Phillips, Spallas, Angstadt, LLC
20 504 South Ninth Street
21 Las Vegas, NV 89101

22 DAVID BOLLINGER was an employee at the time of the incident and is a witness who is
23 expected to provide testimony as to the facts and circumstances surrounding this incident.

24 6. WAL-MART EMPLOYEE, JAMES BROWN
25 c/o Phillips, Spallas, Angstadt, LLC
26 504 South Ninth Street
27 Las Vegas, NV 89101

28 JAMES BROWN was an employee at the time of the incident and is a witness who is expected
to provide testimony as to the facts and circumstances surrounding this incident.

7. WAL-MART EMPLOYEE, ANTONIO CARRILLO

1 c/o Phillips, Spallas, Angstadt, LLC
2 504 South Ninth Street
3 Las Vegas, NV 89101

4 ANTONIO CARRILLO was an employee at the time of the incident and is a witness who is
5 expected to provide testimony as to the facts and circumstances surrounding this incident.

6 8. WAL-MART EMPLOYEE, JAMES CROSS

7 c/o Phillips, Spallas, Angstadt, LLC
8 504 South Ninth Street
9 Las Vegas, NV 89101

10 JAMES CROSS was an employee at the time of the incident and is a witness who is expected to
11 provide testimony as to the facts and circumstances surrounding this incident.

12 9. WAL-MART EMPLOYEE, ZULEMA DE LA PAZ

13 c/o Phillips, Spallas, Angstadt, LLC
14 504 South Ninth Street
15 Las Vegas, NV 89101

16 ZULEMA DE LA PAZ was an employee at the time of the incident and is a witness who is
17 expected to provide testimony as to the facts and circumstances surrounding this incident.

18 10. WAL-MART EMPLOYEE, JAMES DIFRANCISCO

19 c/o Phillips, Spallas, Angstadt, LLC
20 504 South Ninth Street
21 Las Vegas, NV 89101

22 JAMES DIFRANCISCO was an employee at the time of the incident and is a witness who is
23 expected to provide testimony as to the facts and circumstances surrounding this incident.

24 11. WAL-MART EMPLOYEE, REBECCA DIXON

25 c/o Phillips, Spallas, Angstadt, LLC
26 504 South Ninth Street
27 Las Vegas, NV 89101

28 REBECCA DIXON was an employee at the time of the incident and is a witness who is
29 expected to provide testimony as to the facts and circumstances surrounding this incident.

30 12. WAL-MART EMPLOYEE, HOLLY DOUANGPRACHANH

1 c/o Phillips, Spallas, Angstadt, LLC
2 504 South Ninth Street
3 Las Vegas, NV 89101

4 HOLLY DOUANGPRACHANH was an employee at the time of the incident and is a witness
5 who is expected to provide testimony as to the facts and circumstances surrounding this incident.

6 13. WAL-MART EMPLOYEE, KATHLEEN DUPREE
7 c/o Phillips, Spallas, Angstadt, LLC
8 504 South Ninth Street
9 Las Vegas, NV 89101

10 KATHLEEN DUPREE was an employee at the time of the incident and is a witness who is
11 expected to provide testimony as to the facts and circumstances surrounding this incident.

12 14. WAL-MART EMPLOYEE, JEFFREYSON ESMENA
13 c/o Phillips, Spallas, Angstadt, LLC
14 504 South Ninth Street
15 Las Vegas, NV 89101

16 JEFFREYSON ESMENA was an employee at the time of the incident and is a witness who is
17 expected to provide testimony as to the facts and circumstances surrounding this incident.

18 15. WAL-MART EMPLOYEE, JESSICA FLORES-NAJERA
19 c/o Phillips, Spallas, Angstadt, LLC
20 504 South Ninth Street
21 Las Vegas, NV 89101

22 JESSICA FLORES-NAJERA was an employee at the time of the incident and is a witness who
23 is expected to provide testimony as to the facts and circumstances surrounding this incident.

24 16. WAL-MART EMPLOYEE, CHANNEL FULTZ
25 c/o Phillips, Spallas, Angstadt, LLC
26 504 South Ninth Street
27 Las Vegas, NV 89101

28 CHANNEL FULTZ was an employee at the time of the incident and is a witness who is
29 expected to provide testimony as to the facts and circumstances surrounding this incident.

30 17. WAL-MART EMPLOYEE, RAMON GONZALEZ

1 c/o Phillips, Spallas, Angstadt, LLC
2 504 South Ninth Street
3 Las Vegas, NV 89101

4 RAMON GONZALEZ was an employee at the time of the incident and is a witness who is
5 expected to provide testimony as to the facts and circumstances surrounding this incident.

6 18. WAL-MART EMPLOYEE, SONIA GONZALEZ
7 c/o Phillips, Spallas, Angstadt, LLC
8 504 South Ninth Street
9 Las Vegas, NV 89101

10 SONIA GONZALEZ was an employee at the time of the incident and is a witness who is
11 expected to provide testimony as to the facts and circumstances surrounding this incident.

12 19. WAL-MART EMPLOYEE, ARTHUR GRAY
13 c/o Phillips, Spallas, Angstadt, LLC
14 504 South Ninth Street
15 Las Vegas, NV 89101

16 ARTHUR GRAY was an employee at the time of the incident and is a witness who is expected
17 to provide testimony as to the facts and circumstances surrounding this incident.

18 20. WAL-MART EMPLOYEE, KATHY HAFF
19 c/o Phillips, Spallas, Angstadt, LLC
20 504 South Ninth Street
21 Las Vegas, NV 89101

22 KATHY HAFF was an employee at the time of the incident and is a witness who is expected to
23 provide testimony as to the facts and circumstances surrounding this incident.

24 21. WAL-MART EMPLOYEE, SAMUEL HARRIS
25 c/o Phillips, Spallas, Angstadt, LLC
26 504 South Ninth Street
27 Las Vegas, NV 89101

28 SAMUEL HARRIS was an employee at the time of the incident and is a witness who is
expected to provide testimony as to the facts and circumstances surrounding this incident.

29 22. WAL-MART EMPLOYEE, MARY HAYES

1 c/o Phillips, Spallas, Angstadt, LLC
2 504 South Ninth Street
3 Las Vegas, NV 89101

4 MARY HAYES was an employee at the time of the incident and is a witness who is expected to
5 provide testimony as to the facts and circumstances surrounding this incident.

6 23. WAL-MART EMPLOYEE, MARY HOMAN

7 c/o Phillips, Spallas, Angstadt, LLC
8 504 South Ninth Street
9 Las Vegas, NV 89101

10 MARY HOMAN was an employee at the time of the incident and is a witness who is expected
11 to provide testimony as to the facts and circumstances surrounding this incident.

12 24. WAL-MART EMPLOYEE, KYLE IRWIN

13 c/o Phillips, Spallas, Angstadt, LLC
14 504 South Ninth Street
15 Las Vegas, NV 89101

16 KYLE IRWIN was an employee at the time of the incident and is a witness who is expected to
17 provide testimony as to the facts and circumstances surrounding this incident.

18 25. WAL-MART EMPLOYEE, NORIKO JOHNSON

19 c/o Phillips, Spallas, Angstadt, LLC
20 504 South Ninth Street
21 Las Vegas, NV 89101

22 NORIKO JOHNSON was an employee at the time of the incident and is a witness who is
23 expected to provide testimony as to the facts and circumstances surrounding this incident.

24 26. WAL-MART EMPLOYEE, CARMEN LUCERO

25 c/o Phillips, Spallas, Angstadt, LLC
26 504 South Ninth Street
27 Las Vegas, NV 89101

28 CARMEN LUCERO was an employee at the time of the incident and is a witness who is
29 expected to provide testimony as to the facts and circumstances surrounding this incident.

30 27. WAL-MART EMPLOYEE, JOSE MENDEZ

1 c/o Phillips, Spallas, Angstadt, LLC
2 504 South Ninth Street
3 Las Vegas, NV 89101

4 JOSE MENDEZ was an employee at the time of the incident and is a witness who is expected to
5 provide testimony as to the facts and circumstances surrounding this incident.

6 28. WAL-MART EMPLOYEE, SHAWNA MUROLO
7 c/o Phillips, Spallas, Angstadt, LLC
8 504 South Ninth Street
9 Las Vegas, NV 89101

10 SHAWNA MUROLO was an employee at the time of the incident and is a witness who is
11 expected to provide testimony as to the facts and circumstances surrounding this incident.

12 29. WAL-MART EMPLOYEE, MERANNDRA PERALTA
13 c/o Phillips, Spallas, Angstadt, LLC
14 504 South Ninth Street
15 Las Vegas, NV 89101

16 MERRANDA PERALTA was an employee at the time of the incident and is a witness who is
17 expected to provide testimony as to the facts and circumstances surrounding this incident.

18 30. WAL-MART EMPLOYEE, RICHARD PENCKNEY, III
19 c/o Phillips, Spallas, Angstadt, LLC
20 504 South Ninth Street
21 Las Vegas, NV 89101

22 RICHARD PINCKNEY, III was an employee at the time of the incident and is a witness who is
23 expected to provide testimony as to the facts and circumstances surrounding this incident.

24 31. WAL-MART EMPLOYEE, ZACHARY PREMACK
25 c/o Phillips, Spallas, Angstadt, LLC
26 504 South Ninth Street
27 Las Vegas, NV 89101

28 ZACHARY PREMACK was an employee at the time of the incident and is a witness who is
29 expected to provide testimony as to the facts and circumstances surrounding this incident.

30 32. WAL-MART EMPLOYEE, DENCY RANGEL

1 c/o Phillips, Spallas, Angstadt, LLC
2 504 South Ninth Street
3 Las Vegas, NV 89101

4 DENCY RANGEL was an employee at the time of the incident and is a witness who is
5 expected to provide testimony as to the facts and circumstances surrounding this incident.

6 33. WAL-MART EMPLOYEE, SHELLEY RAUB
7 c/o Phillips, Spallas, Angstadt, LLC
8 504 South Ninth Street
9 Las Vegas, NV 89101

10 SHELLEY RAUB was an employee at the time of the incident and is a witness who is expected
11 to provide testimony as to the facts and circumstances surrounding this incident.

12 34. WAL-MART EMPLOYEE, TOMMY RENAUD
13 c/o Phillips, Spallas, Angstadt, LLC
14 504 South Ninth Street
15 Las Vegas, NV 89101

16 TOMMY RENAUD was an employee at the time of the incident and is a witness who is
17 expected to provide testimony as to the facts and circumstances surrounding this incident.

18 35. WAL-MART EMPLOYEE, GABRIEL RIDEOUT
19 c/o Phillips, Spallas, Angstadt, LLC
20 504 South Ninth Street
21 Las Vegas, NV 89101

22 GABRIEL RIDEOUT was an employee at the time of the incident and is a witness who is
23 expected to provide testimony as to the facts and circumstances surrounding this incident.

24 36. WAL-MART EMPLOYEE, ANTHONY RODRIGUEZ
25 c/o Phillips, Spallas, Angstadt, LLC
26 504 South Ninth Street
27 Las Vegas, NV 89101

28 ANTHONY RODRIGUEZ was an employee at the time of the incident and is a witness who is
29 expected to provide testimony as to the facts and circumstances surrounding this incident.

30 37. WAL-MART EMPLOYEE, GEORGE SCHEIBERT

1 c/o Phillips, Spallas, Angstadt, LLC
2 504 South Ninth Street
3 Las Vegas, NV 89101

4 GEORGE SCHEIBERT was an employee at the time of the incident and is a witness who is
5 expected to provide testimony as to the facts and circumstances surrounding this incident.

6 38. WAL-MART EMPLOYEE, DALLAS SCOTT
7 c/o Phillips, Spallas, Angstadt, LLC
8 504 South Ninth Street
9 Las Vegas, NV 89101

10 DALLAS SCOTT was an employee at the time of the incident and is a witness who is expected
11 to provide testimony as to the facts and circumstances surrounding this incident.

12 39. WAL-MART EMPLOYEE, TAHIYYAH SHAKIR-JEMMOTT
13 c/o Phillips, Spallas, Angstadt, LLC
14 504 South Ninth Street
15 Las Vegas, NV 89101

16 TAHIYYAH SHAKIR-JEMMOTT was an employee at the time of the incident and is a witness
17 who is expected to provide testimony as to the facts and circumstances surrounding this incident.

18 40. WAL-MART EMPLOYEE, DALE SIMMONS
19 c/o Phillips, Spallas, Angstadt, LLC
20 504 South Ninth Street
21 Las Vegas, NV 89101

22 DALE SIMMONS was an employee at the time of the incident and is a witness who is expected
23 to provide testimony as to the facts and circumstances surrounding this incident.

24 41. WAL-MART EMPLOYEE, JAMIE SMITH
25 c/o Phillips, Spallas, Angstadt, LLC
26 504 South Ninth Street
27 Las Vegas, NV 89101

28 JAMIE SMITH was an employee at the time of the incident and is a witness who is expected to
29 provide testimony as to the facts and circumstances surrounding this incident.

1 42. WAL-MART EMPLOYEE, JASON SPROUT
2 c/o Phillips, Spallas, Angstadt, LLC
3 504 South Ninth Street
4 Las Vegas, NV 89101

5 JASON SPROUT was an employee at the time of the incident and is a witness who is expected
6 to provide testimony as to the facts and circumstances surrounding this incident.

7 43. WAL-MART EMPLOYEE, JAMES STRINGER
8 c/o Phillips, Spallas, Angstadt, LLC
9 504 South Ninth Street
10 Las Vegas, NV 89101

11 JAMES STRINGER was an employee at the time of the incident and is a witness who is
12 expected to provide testimony as to the facts and circumstances surrounding this incident.

13 44. WAL-MART EMPLOYEE, GWENDOLYN TURNER
14 c/o Phillips, Spallas, Angstadt, LLC
15 504 South Ninth Street
16 Las Vegas, NV 89101

17 GWENDOLYN TURNER was an employee at the time of the incident and is a witness who is
18 expected to provide testimony as to the facts and circumstances surrounding this incident.

19 45. WAL-MART EMPLOYEE, WILLIAMS WHITE
20 c/o Phillips, Spallas, Angstadt, LLC
21 504 South Ninth Street
22 Las Vegas, NV 89101

23 WILLIAMS WHITE was an employee at the time of the incident and is a witness who is
24 expected to provide testimony as to the facts and circumstances surrounding this incident.

25 46. WAL-MART EMPLOYEE, ASHLEY WILLIAMS
26 c/o Phillips, Spallas, Angstadt, LLC
27 504 South Ninth Street
28 Las Vegas, NV 89101

ASHLEY WILLIAMS was an employee at the time of the incident and is a witness who is
expected to provide testimony as to the facts and circumstances surrounding this incident.

1 47. WAL-MART EMPLOYEE, KEIYANNA WILSON
2 c/o Phillips, Spallas, Angstadt, LLC
3 504 South Ninth Street
4 Las Vegas, NV 89101

5 KEIYANNA WILSON was an employee at the time of the incident and is a witness who is
6 expected to provide testimony as to the facts and circumstances surrounding this incident.

7 48. WAL-MART EMPLOYEE, MARIBEL ZAPEDA
8 c/o Phillips, Spallas, Angstadt, LLC
9 504 South Ninth Street
10 Las Vegas, NV 89101

11 MARIBEL ZAPEDA was an employee at the time of the incident and is a witness who is
12 expected to provide testimony as to the facts and circumstances surrounding this incident.

13 49. Person(s) Most Knowledgeable and/or
14 Custodian of Records and/or
15 Advanced Occupational Health Center
16 3375 S. Eastern Avenue, Suite 160
17 Las Vegas, NV 89169

18 50. Person(s) Most Knowledgeable and/or
19 Custodian of Records and/or
20 Diagnostic Imaging of Southern Nevada
21 3560 E. Flamingo Road, #100
22 Las Vegas, Nevada 89121

23 51. Person(s) Most Knowledgeable and/or
24 Custodian of Records of
25 Las Vegas Radiology
26 1342 S. Decatur Blvd.
27 Las Vegas, Nevada 89102

28 52. Person(s) Most Knowledgeable and/or
29 Custodian of Records and/or
30 Hans Jorg Rosler, M.D.
31 Nevada Spine Clinic
32 8930 W. Sunset Rd., Suite 350
33 Las Vegas, NV 89148

34 53. Person(s) Most Knowledgeable and/or

1 Custodian of Records of
2 Smoke Ranch Surgical Center
3 7180 Smoke Ranch Road, Suite 150
4 Las Vegas, NV 89128

5 54. Person(s) Most Knowledgeable and/or
6 Custodian of Records of
7 Well Care Pharmacy
8 3910 S. Maryland Parkway, Suite C
9 Las Vegas, NV 89119

10 55. Person(s) Most Knowledgeable and/or
11 Custodian of Records of
12 Valley Hospital Medical Center
13 620 Shadow Lane
14 Las Vegas, NV 89106

15 56. Person(s) Most Knowledgeable and/or
16 Custodian of Records and/or
17 Stuart Kaplan, M.D.
18 Western Regional Center for Brain and Spine
19 7140 Smoke Ranch Rd.
20 Las Vegas, NV 89128

21 57. Person(s) Most Knowledgeable and/or
22 Custodian of Records and/or
23 David M. Ross, M.D.
24 7140 Smoke Ranch Road
25 Las Vegas, NV 89128

26 58. Person(s) Most Knowledgeable and/or
27 Custodian of Records and/or
28 Mark Kabins, M.D.
29 Las Vegas Neurosurgery, Orthopaedics and Rehabilitation, LLP
30 501 S. Rancho Drive, Ste. I-67
31 Las Vegas, Nevada 89106

32 59. Person(s) Most Knowledgeable and/or
33 Custodian of Records and/or
34 Joseph T. Course, Ph.D.
35 Vocational Economics, Inc.
36 3960 Howard Hughes Parkway, Suite 500
37 Las Vegas, Nevada 89169

38 60. Person(s) Most Knowledgeable and/or
39 Stuart S. Kaplan, M.D., F.A.C.S.

Western Regional Center for Brain & Spine Surgery of Las Vegas
3601 S. Maryland Parkway, Ste. 200
Las Vegas, Nevada 89109

61. Person(s) Most Knowledgeable and/or
Las Vegas Paiute Health & Human Services
1257 Paiute Circle
Las Vegas, Nevada 89106

62. Mark Kabins, M.D.
Las Vegas Neurosurgery, Orthopaedics and Rehabilitation, LLP
501 S. Rancho Drive, Ste. I-67
Las Vegas, Nevada 89106

Dr. Kabins will testify as to his review of Plaintiff SUSIE MCCABE's medical records, examination of Plaintiff SUSIE MCCABE, diagnostic studies, opinions regarding Plaintiff SUSIE MCCABE's past medical care and/or treatment, and his opinions regarding Plaintiff SUSIE MCCABE's potential need for future care and/or treatment, including the treatment and medical reasonableness of other medical providers. He will also provide opinions regarding the causation of Plaintiff's injuries and the necessity and reasonableness of Plaintiff SUSIE MCCABE's past and future medical needs and the expenses of the same. Dr. Kabins will also testify regarding the nature and extent of Plaintiff SUSIE MCCABE's permanent injuries and the restrictions these permanent injuries place on Plaintiff SUSIE MCCABE's daily living and as to the cause of Plaintiff SUSIE MCCABE's surgery.

63. Stuart S. Kaplan, M.D., F.A.C.S.
Western Regional Center for Brain & Spine Surgery of Las Vegas
3601 S. Maryland Parkway, Ste. 200
Las Vegas, Nevada 89109

Dr. Kaplan will testify as to his review of Plaintiff SUSIE MCCABE's medical records, examination of Plaintiff SUSIE MCCABE, diagnostic studies, opinions regarding Plaintiff SUSIE MCCABE's past medical care and/or treatment, and his opinions regarding Plaintiff SUSIE MCCABE's potential need for future care and/or treatment, including the treatment and medical reasonableness of other medical providers. He will also provide opinions regarding the causation of

Plaintiff's injuries and the necessity and reasonableness of Plaintiff SUSIE MCCABE's past and future medical needs and the expenses of the same. Dr. Kaplan will also testify regarding the nature and extent of Plaintiff SUSIE MCCABE's permanent injuries and the restrictions these permanent injuries place on Plaintiff SUSIE MCCABE's daily living and as to the cause of Plaintiff SUSIE MCCABE's surgery.

64. Joseph T. Crouse, Ph.D.
Vocational Economics, Inc.
3960 Howard Hughes Pkwy, Ste. 500
Las Vegas, Nevada 89169

Mr. Crouse will testify as a retained economic and vocational rehabilitation expert as to his review of Plaintiff SUSIE MCCABE's medical records, examination of Plaintiff SUSIE MCCABE, diagnostic studies, opinions regarding Plaintiff SUSIE MCCABE's past medical care and/or treatment, and his opinions regarding Plaintiff SUSIE MCCABE's potential need for future care and/or treatment, and the cost of that treatment brought to present value.

65. Frank A. Perez, Ph.D.
Boster, Kobayashi & Associates
59 Rickenbacker Circle
P.O. Box 2049
Livermore, California 94551

Dr. Perez will testify as a retained human factors expert as to his review of photographs of the subject crane collar, incident reports, and other information pertaining to the subject incident. Dr. Perez is expected to testify as to the foreseeability of the subject incident, and the human factors involved in the subject incident.

TREATING MEDICAL EXPERTS

Plaintiff also designates Plaintiff SUSIE MCCABE's treating physicians in this case as expert witnesses in this case insofar as they will provide opinion testimony regarding the cause, nature, and extent of Plaintiff SUSIE MCCABE's injuries, the reasonableness and necessity of medical treatment,

the reasonableness of the cost of Plaintiff SUSIE MCCABE's treatment, the likelihood for future treatment, if any, and cost of said treatment, and any permanent disability Plaintiff SUSIE MCCABE is likely to suffer as a result of her injuries. Plaintiff SUSIE MCCABE has previously disclosed the names of her treating doctors and their records and reports, and incorporates said production herein by reference, but lists them again as follows:

66. Hans Jorg Rosler, M.D.
Previously with NEVADA SPINE CLINIC
8930 W. Sunset Rd., Suite 350
Las Vegas, NV 89148
Currently at INTERVENTIONAL PAIN & SPINE INSTITUTE
851 S. Rampart Blvd., Suite 100
Las Vegas, NV 89145

Hans Jorg Rosler, M.D. has rendered medical treatment to Plaintiff for her accident related injuries and will serve as a treating medical expert. He will testify regarding the reasonable and necessity of such care and the charges associated therewith, his clinical findings and diagnostic impressions, his care and treatment, his prognosis regarding Plaintiff's medical conditions and the limitations Plaintiff's medical conditions impose upon Plaintiff's occupational and living activities.

In addition, Hans Jorg Rosler, M.D. is expected to give expert opinion testimony regarding the nature, extent and cause of Plaintiff's injuries; the reasonable future medical care that has been necessitated by the subject accident; the amount, reasonableness and necessity of future medical treatment caused by Plaintiff's accident related injuries, including lifetime medical surgical, rehabilitative and associated medical expenses; the charges for past and future medical care as being customary for physicians and/or health care providers in the Las Vegas Medical community; the nature, extend and manner in which Plaintiff's accident related injuries have affected his ability to continue to perform her current occupations and activities of daily living; and the nature extend and manner in which Plaintiff's accident related injuries have diminished Plaintiff's work life expectancy and restrict her future daily living activities.

1 In rendering his expert opinions, Hans Jorg Rosler, M.D. will rely on his findings through
2 diagnosis and treatment of Plaintiff, including his own records and notes and any records from other
3 physicians or diagnostic studies that Hans Jorg Rosler, M.D. may have considered to assist in his
4 diagnosis and/or treatment. Additionally, in order to defend his treatment and/or diagnosis and/or
5 opinions, including those related to causation, Hans Jorg Rosler, M.D. has and/or will review the
6 records of other physicians that have treated Plaintiff for injuries sustained in the subject accident, as
7 well as reports from Defendants' experts, and other case evidence including deposition testimony.

8 While not required pursuant to the Federal Rules of Civil Procedure, Plaintiff hereby designates
9 his treating physicians in this case as expert witnesses insofar as they will provide opinion testimony
10 regarding the cause, nature and extent of Plaintiff's injuries, the reasonableness and necessity of his
11 medical treatment, the reasonableness and customary nature of the cost of Plaintiff's treatment, the
12 likelihood Plaintiff will require future treatment, the cost of any said treatment, and the permanent
13 disability Plaintiff has suffered and will suffer in the future as a result of his injuries sustained as a result
14 of the subject-incident. Plaintiff has previously disclosed the names of his treating doctors and their
15 respective records and reports and incorporates said production herein by reference.

16 Plaintiff hereby incorporate all expert witness lists propounded by the Defendant reserving the
17 right to call on them during his case in chief during the trial of this matter and reserves the right to call
18 rebuttal witnesses to any expert witness called by the Defendant at time of trial. Plaintiff also reserves
19 the right to name any other witness as may be necessary for the purpose of rebuttal and/or
20 impeachment.

21 Plaintiff further reserves the right to name additional witnesses should they become known.
22

23 DEFENDANT'S WITNESSES

24 1. SUSIE MCCABE, Plaintiff
25 c/o MORRIS ANDERSON
26 716 S. Jones Blvd.
27 Las Vegas, Nevada 89107
28

1 SUSIE MCCABE is the Plaintiff in this action and is expected to provide testimony as to the
2 facts and circumstances surrounding this incident and the injuries and treatment she received.
3

4 2. PLAINTIFF SUZY MCCABE (address and telephone number known to Plaintiff) is
5 expected to testify regarding the facts and circumstances surrounding Plaintiff's alleged
6 incident on November 4, 2012;

7 3. Plaintiff's treatment providers;

8 4. Plaintiff's employers

9 5. JUAN SANCHEZ (c/o Phillips Spallas & Angstadt) is expected to testify regarding the
10 facts and circumstances surrounding Plaintiff's alleged incident on November 4, 2012;

11 6. Steven L. McIntire, M.D., PhD 11030 White Rock Road, Suite 110
12 Rancho Cordova, California 95670

13 7. Michael H. Reid, Ph.D., M.D.
14 3090 Barberry Lane
15 Sacramento, CA 95864

16 8. Person(s) Most Knowledgeable and/or
17 Custodian of Records and/or
18 Advanced Occupational Health Center
19 3375 S. Eastern Avenue, Suite 160
20 Las Vegas, NV 89169

21 9. Person(s) Most Knowledgeable and/or
22 Custodian of Records and/or
23 Diagnostic Imaging of Southern Nevada
24 3560 E. Flamingo Road, #100
25 Las Vegas, Nevada 89121

26 10. Person(s) Most Knowledgeable and/or
27 Custodian of Records of
28 Las Vegas Radiology
1342 S. Decatur Blvd.
Las Vegas, Nevada 89102

11. Person(s) Most Knowledgeable and/or
Custodian of Records and/or
Hans Jorg Rosler, M.D.
Nevada Spine Clinic

1 8930 W. Sunset Rd., Suite 350
2 Las Vegas, NV 89148

3 12. Person(s) Most Knowledgeable and/or
4 Custodian of Records of
5 Smoke Ranch Surgical Center
6 7180 Smoke Ranch Road, Suite 150
7 Las Vegas, NV 89128

8 13. Person(s) Most Knowledgeable and/or
9 Custodian of Records of
10 Well Care Pharmacy
11 3910 S. Maryland Parkway, Suite C
12 Las Vegas, NV 89119

13 14. Person(s) Most Knowledgeable and/or
14 Custodian of Records of
15 Valley Hospital Medical Center
16 620 Shadow Lane
17 Las Vegas, NV 89106

18 15. Person(s) Most Knowledgeable and/or
19 Custodian of Records and/or
20 Stuart Kaplan, M.D.
21 Western Regional Center for Brain and Spine
22 7140 Smoke Ranch Rd.
23 Las Vegas, NV 89128

24 16. Person(s) Most Knowledgeable and/or
25 Custodian of Records and/or
26 David M. Ross, M.D.
27 7140 Smoke Ranch Road
28 Las Vegas, NV 89128

29 17. Person(s) Most Knowledgeable and/or
30 Custodian of Records and/or
31 Mark Kabins, M.D.
32 Las Vegas Neurosurgery, Orthopaedics and Rehabilitation, LLP
33 501 S. Rancho Drive, Ste. I-67
34 Las Vegas, Nevada 89106

35 18. Person(s) Most Knowledgeable and/or
36 Custodian of Records and/or
37 Joseph T. Course, Ph.D.
38 Vocational Economics, Inc.
39 3960 Howard Hughes Parkway, Suite 500

1 Las Vegas, Nevada 89169
2

3 19. Person(s) Most Knowledgeable and/or
4 Stuart S. Kaplan, M.D., F.A.C.S.
Western Regional Center for Brain & Spine Surgery of Las Vegas
3601 S. Maryland Parkway, Ste. 200
Las Vegas, Nevada 89109

5 20. Person(s) Most Knowledgeable and/or
6 Las Vegas Paiute Health & Human Services
7 1257 Paiute Circle
8 Las Vegas, Nevada 89106

9 21. Mark Kabins, M.D.
10 Las Vegas Neurosurgery, Orthopaedics and Rehabilitation, LLP
501 S. Rancho Drive, Ste. I-67
11 Las Vegas, Nevada 89106

12 22. Defendant reserves the right to call at trial any witnesses identified by Plaintiff's
disclosures

13 **IX.**

14 Counsel have met and herewith submit a list of three (3) agreed-upon trial dates:

15 Plaintiff: **July 11, 2016, July 18, 2016**

16 Defendant: **July 11, 2016, July 18, 2016**

17 It is expressly understood by the undersigned that the court will set the trial of this matter on
18 one (1) of the agreed-upon dates if possible; if not, the trial will be set at the convenience of the
19 court's calendar.

20 **X.**

21 It is estimated that the trial herein will take a total of 7-10 days, which includes Voir Dire of
22 the perspective jury.

23 Dated: December 14, 2015

25 APPROVED AS TO FORM AND CONTENT:

26 _____
/s/ Jacqueline R. Bretell
Attorney for Plaintiff

/s/ Jennifer A. Taylor
Attorney for Defendant

XI.

ACTION BY THE COURT

The Pretrial Order dated 11/20/15 [ECF 51] is VACATED.

(a) This case is set down for jury trial on the August 9, 2016, 9:00 a.m. trial stack. The parties must appear for Calendar Call on August 1, 2016, at 1:30 p.m.

(b) No later than August 1, 2016, at 1:30 p.m., each party must submit to the Clerk:

- (1) An original and two copies of its trial brief;
- (2) An original and two copies of proposed jury instructions and proposed voir dire questions.

(c) The deadline for filing MOTIONS IN LIMINE is July 1, 2016. The process for preparing and filing motions in limine will be governed by the following additional rules and considerations:

- (1) Before any motion in limine is filed, the parties must meet and confer (by telephone or in person—not merely by email or some other form of writing) about the substance of each contemplated in-limine issue and attempt to reach an agreement on the issue. Evidentiary agreements reached during this process should be memorialized by a written stipulation. If the parties do not reach an agreement on an issue and a motion in limine remains necessary, **the motion must be accompanied by a declaration or affidavit certifying that counsel actually conferred in good faith** to resolve the issue before the motion was filed (or re-filed). The failure to include the certificate of counsel will result in the automatic denial of the motion without the opportunity to cure this deficiency.
- (2) Motions in limine must address only true evidentiary issues and not be belated motions for dispositive rulings disguised as a motion in limine.
- (3) Parties **must include all in-limine issues in a SINGLE, omnibus motion** that numbers each issue consecutively; no party may file multiple, separate motions. This format eliminates the need for redundant recitations of facts and introductory statements of the law. If the size of the omnibus motion exceeds the page limit in the local rule, *see L.R. 7-4*, a separate motion to exceed the page limits should be filed

contemporaneously with the omnibus motion; the motion to exceed page limits must **not** be styled as an “emergency.”

(4) If it becomes necessary to seek leave to file a reply in support of the motions, see L.R. 16-3(b), each side may file only a single request for leave. The parties should not presume that the court will grant these requests for leave, so proposed orders granting them should not be submitted.

(5) The parties are cautioned that vague requests based on speculative issues, like requests to generally preclude improper attorney arguments, violations of the golden rule, or irrelevant evidence will be flatly denied. The court intends to follow the rules of evidence and procedure at trial and expects the parties to do the same. Motions seeking little more than an order enforcing a rule waste the court's time and the parties' resources. Counsel is strongly cautioned that abuse of the motion-in-limine vehicle in this manner may result in sanctions against the attorneys.

This order will govern the trial of this case and may not be amended except by order of the court.

Dated this 15th day of December, 2015

Jennifer A. Dorsey
United States District Judge

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